

# Senate Study Bill 1094

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
COMMERCE/DIVISION OF  
INSURANCE BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to insurance, including various filing and  
2 information privacy requirements throughout the insurance  
3 code, calculation of assessments by the Iowa individual health  
4 benefit reinsurance association, payment of certain insurance  
5 fees, certain self-funded insurance plans by school  
6 corporations or political subdivisions, designation of the  
7 commissioner of insurance as process agent for various  
8 entities conducting insurance business in this state,  
9 notification provisions relating to the effective date of  
10 cancellation of insurance, beneficial stock ownership filings,  
11 funding agreements, creating an insurable interest in active  
12 or retired employee lives for the benefit of an employer,  
13 providing for an interstate insurance product regulation  
14 compact, and providing for retroactive applicability and an  
15 effective date.  
16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
17 TLSB 1046DP 80  
18 jj/sh/8

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1 1 DIVISION I  
1 2 Section 1. Section 505.8, subsection 6, Code 2003, is  
1 3 amended to read as follows:  
1 4 6. a. Notwithstanding chapter 22, the commissioner shall  
1 5 keep confidential both information obtained in the course of  
1 6 an investigation and information submitted to the insurance  
1 7 division pursuant to chapters 514J and 515D.  
1 8 b. The commissioner shall adopt rules protecting the  
1 9 privacy of information held by an insurer or an agent  
1 10 consistent with the federal Gramm-Leach-Bliley Act, Pub. L.  
1 11 No. 106=102.  
1 12 c. However, notwithstanding paragraphs "a" and "b", if the  
1 13 commissioner determines that it is necessary or appropriate in  
1 14 the public interest or for the protection of the public, the  
1 15 commissioner may share information with other regulatory  
1 16 authorities or governmental agencies or may publish  
1 17 information concerning a violation of this chapter or a rule  
1 18 or order under this chapter. Such information may be redacted  
1 19 so that personally identifiable information is not made  
1 20 available.  
1 21 d. The commissioner may adopt rules protecting the privacy  
1 22 of information submitted to the insurance division consistent  
1 23 with this section.  
1 24 Sec. 2. NEW SECTION. 505.24 SALE OF POLICY TERM  
1 25 INFORMATION BY CONSUMER REPORTING AGENCY.  
1 26 1. For purposes of this section, unless the context  
1 27 otherwise requires, "consumer reporting agency" means any  
1 28 person that for monetary fees, dues, or on a cooperative  
1 29 nonprofit basis regularly engages in whole or in part in the  
1 30 practice of assembling or evaluating consumer credit  
1 31 information or other information on consumers for the purpose  
1 32 of furnishing consumer reports to third parties and that uses  
1 33 any means or facility of interstate commerce for the purpose  
1 34 of preparing or furnishing consumer reports.  
1 35 2. A consumer reporting agency shall not provide or sell  
2 1 data or lists that include any information that in whole or in  
2 2 part was submitted in conjunction with an insurance inquiry  
2 3 about a consumer's credit information or a request for a  
2 4 credit report or insurance score. Information submitted in  
2 5 conjunction with an insurance inquiry about a consumer  
2 6 includes, but is not limited to, the expiration dates of an  
2 7 insurance policy or any other information that may identify  
2 8 time periods during which a consumer's insurance may expire  
2 9 and the terms and conditions of the consumer's insurance

2 10 coverage.

2 11 3. The restrictions provided in subsection 2 do not apply  
2 12 to data or lists supplied by a consumer reporting agency to an  
2 13 insurance producer from whom information was received, the  
2 14 insurer on whose behalf such producer acted, or such insurer's  
2 15 affiliates or holding companies.

2 16 4. This section shall not be construed to restrict any  
2 17 insurer from being able to obtain a claims history report or a  
2 18 motor vehicle report.

2 19 Sec. 3. Section 507A.4, subsection 9, Code 2003, is  
2 20 amended by adding the following new paragraph:

2 21 NEW PARAGRAPH. e. When not otherwise provided, a foreign  
2 22 or domestic multiple employee welfare arrangement doing  
2 23 business in this state shall pay to the commissioner of  
2 24 insurance the fees as required in section 511.24.

2 25 Sec. 4. Section 507B.3, Code 2003, is amended to read as  
2 26 follows:

2 27 507B.3 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR  
2 28 PRACTICES PROHIBITED.

2 29 1. A person shall not engage in this state in any trade  
2 30 practice which is defined in this chapter as, or determined  
2 31 pursuant to section 507B.6 to be, an unfair method of  
2 32 competition, or an unfair or deceptive act or practice in the  
2 33 business of insurance. The issuance of a qualified charitable  
2 34 gift annuity as provided in chapter 508F does not constitute a  
2 35 trade practice in violation of this chapter.

3 1 2. The commissioner shall have power to examine and  
3 2 investigate into the affairs of every person engaged in the  
3 3 business of insurance in this state in order to determine  
3 4 whether such person has been or is engaged in any unfair  
3 5 method of competition or in any unfair or deceptive act or  
3 6 practice prohibited by this section. The commissioner shall  
3 7 keep confidential the information submitted to the insurance  
3 8 division, or obtained by the insurance division in the course  
3 9 of an investigation pursuant to section 505.8, subsection 6.

3 10 Sec. 5. Section 508.11, unnumbered paragraph 1, Code 2003,  
3 11 is amended to read as follows:

3 12 The president or vice president and secretary or actuary,  
3 13 or a majority of the directors of each company organized under  
3 14 this chapter, shall annually, by on or before the first day of  
3 15 March, prepare under oath and file in the office of the  
3 16 commissioner of insurance or a depository designated by the  
3 17 commissioner a statement of its affairs for the year

3 18 terminating on the thirty-first day of December preceding,  
3 19 showing:

3 20 Sec. 6. Section 508.31A, Code 2003, is amended to read as  
3 21 follows:

3 22 508.31A FUNDING AGREEMENTS.

3 23 1. A life insurance company organized under this chapter  
3 24 may issue funding agreements. The issuance of a funding  
3 25 agreement under this section is deemed to be doing insurance  
3 26 business. For purposes of this section, "funding agreement"  
3 27 means an agreement for an insurer to accept and accumulate  
3 28 funds and to make one or more payments at future dates in  
3 29 amounts that are not based on mortality or morbidity  
3 30 contingencies of the person to whom the funding agreement is  
3 31 issued. A funding agreement does not constitute life

3 32 insurance, an annuity, or other insurance authorized by  
3 33 section 508.29, and does not constitute a security as defined  
3 34 in section 502.102.

3 35 2. a. Funding agreements may be issued to the following:

4 1 (1) A person authorized by a state or foreign country to  
4 2 engage in an insurance business or a subsidiary of such  
4 3 business.

4 4 (2) A person for the purpose of funding any of the  
4 5 following:

4 6 (a) Benefits under an employee benefit plan as defined in  
4 7 the federal Employee Retirement Income Security Act of 1974,  
4 8 29 U.S.C. } 1001 et seq., maintained in the United States or  
4 9 in a foreign country.

4 10 (b) Activities of an organization exempt from taxation  
4 11 pursuant to section 501c of the Internal Revenue Code, or any  
4 12 similar organization in any foreign country.

4 13 (c) A program of the United States government, another  
4 14 state government or political subdivision of such state, or of  
4 15 a foreign country, or any agency or instrumentality of any  
4 16 such government, political subdivision, or foreign country.

4 17 (d) An agreement providing for periodic payments in  
4 18 satisfaction of a claim.

4 19 (e) A program of an institution which has assets in excess  
4 20 of twenty-five million dollars.

4 21 (3) A person other than a natural person that has assets  
4 22 of at least twenty-five million dollars.

4 23 (4) A person other than a natural person for the purpose  
4 24 of providing collateral security for securities issued by such  
4 25 person and registered with the federal securities and exchange  
4 26 commission.

4 27 b. A funding agreement issued pursuant to subparagraph  
4 28 (1), (2), or (3) shall be for a total amount of not less than  
4 29 one million dollars.

4 30 c. An amount under a funding agreement shall not be  
4 31 guaranteed or credited except upon reasonable assumptions as  
4 32 to investment income and expenses and on a basis equitable to  
4 33 all holders of funding agreements of a given class. Such  
4 34 funding agreements shall not provide for payments to ~~or by~~ the  
4 35 insurer based on mortality or morbidity contingencies.

5 1 d. Amounts paid to the insurer pursuant to a funding  
5 2 agreement, and proceeds applied under optional modes of  
5 3 settlement, may be allocated by the insurer to one or more  
5 4 separate accounts pursuant to section 508A.1.

5 5 3. A funding agreement is a class 2 claim under section  
5 6 507C.42, subsection 2.

5 7 4. The commissioner may adopt rules to implement funding  
5 8 agreements.

5 9 Sec. 7. Section 509A.15, subsection 4, Code 2003, is  
5 10 amended by striking the subsection and inserting in lieu  
5 11 thereof the following:

5 12 4. One or more political subdivisions of the state or one  
5 13 or more school corporations maintaining self-insured plans  
5 14 with yearly claims that do not exceed one percent of each  
5 15 entity's general fund budget shall be exempt from the  
5 16 requirements of this section where the plan insures employees  
5 17 for all or part of a deductible, coinsurance payments, drug  
5 18 costs, short-term disability benefits, vision benefits, or  
5 19 dental benefits.

5 20 The yearly claim amount shall be determined annually on the  
5 21 policy renewal date, or an alternative date established by  
5 22 rule, by a plan administrator or political subdivision or  
5 23 school corporation employee to be designated by the plan  
5 24 administrator. The exemption shall not apply for the year  
5 25 following a year in which yearly claims are determined to  
5 26 exceed one percent of the political subdivision's or school  
5 27 corporation's general fund budget.

5 28 Sec. 8. Section 510A.2, subsections 3, 4, and 5, Code  
5 29 2003, are amended to read as follows:

5 30 3. "Controlled insurer" means a licensed insurer ~~which~~  
5 31 that is controlled, directly or indirectly, by ~~a~~ an insurance  
5 32 producer.

5 33 4. "Controlling producer" means ~~a~~ an insurance producer  
5 34 who, directly or indirectly, controls an insurer.

5 35 5. "Independent casualty actuary" means a casualty actuary  
6 1 who is a member of the American academy of actuaries and who  
6 2 is not an employee, principal, the direct or indirect owner  
6 3 of, affiliated with, or in any way controlled by the insurer  
6 4 or insurance producer.

6 5 Sec. 9. Section 510A.2, Code 2003, is amended by adding  
6 6 the following new subsection:

6 7 NEW SUBSECTION. 5A. "Insurance producer" means a person  
6 8 required to be licensed under the laws of this state to sell,  
6 9 solicit, or negotiate insurance.

6 10 Sec. 10. Section 510A.2, subsection 7, Code 2003, is  
6 11 amended by striking the subsection.

6 12 Sec. 11. Section 510A.4, subsection 1, paragraph b,  
6 13 subparagraph (2), Code 2003 is amended to read as follows:

6 14 (2) The controlled insurer, except for insurance business  
6 15 written through a residual market facility, accepts insurance  
6 16 business only from the controlling producer, a producer  
6 17 controlled by the controlled insurer, or ~~a~~ an insurance  
6 18 producer that is a subsidiary of the controlled insurer.

6 19 Sec. 12. Section 510A.4, subsection 2, paragraph g, Code  
6 20 2003, is amended to read as follows:

6 21 g. The controlled insurer shall provide the controlling  
6 22 producer with its underwriting standards, rules, and  
6 23 procedures manuals setting forth the rates to be charged, and  
6 24 the conditions for the acceptance or rejection of risks. The  
6 25 controlling producer shall adhere to the standards, rules,  
6 26 procedures, rates, and conditions. The standards, rules,  
6 27 procedures, rates, and conditions shall be the same as those  
6 28 applicable to comparable business placed with the controlled  
6 29 insurer by ~~a~~ an insurance producer other than the controlling  
6 30 producer.

6 31 Sec. 13. Section 510A.4, subsection 4, Code 2003, is

6 32 amended to read as follows:

6 33 4. REPORTING REQUIREMENTS.

6 34 a. In addition to any other required loss reserve  
6 35 certification, the controlled insurer shall annually, on April  
7 1 1 of each year, file with the commissioner an opinion of an  
7 2 independent casualty actuary, or another independent loss  
7 3 reserve specialist acceptable to the commissioner, reporting  
7 4 loss ratios for each line of business written and attesting to  
7 5 the adequacy of loss reserves established for losses incurred  
7 6 and outstanding as of year-end on business placed by the  
7 7 insurance producer, including incurred but not reported  
7 8 losses.

7 9 b. The controlled insurer shall annually report to the  
7 10 commissioner the amount of commissions paid to the insurance  
7 11 producer, the percentage such amount represents of the net  
7 12 premiums written, and comparable amounts and percentage paid  
7 13 to noncontrolling producers for placements of the same kinds  
7 14 of insurance.

7 15 Sec. 14. Section 510A.5, Code 2003, is amended to read as  
7 16 follows:

7 17 510A.5 DISCLOSURE.

7 18 The insurance producer, prior to the effective date of the  
7 19 policy, shall deliver written notice to the prospective  
7 20 insured disclosing the relationship between the insurance  
7 21 producer and the controlled insurer; except that, if the  
7 22 business is placed through a subproducer who is not a  
7 23 controlling producer, the controlling producer shall retain in  
7 24 the producer's records a signed commitment from the  
7 25 subproducer that the subproducer is aware of the relationship  
7 26 between the insurer and the insurance producer and that the  
7 27 subproducer has notified or will notify the insured.

7 28 Sec. 15. Section 511.8, subsection 20, Code 2003, is  
7 29 amended by adding the following new unnumbered paragraph:

7 30 NEW UNNUMBERED PARAGRAPH. "Venture capital fund" includes  
7 31 an equity interest in the Iowa fund of funds as defined in  
7 32 section 15E.62.

7 33 Sec. 16. Section 511.27, Code 2003, is amended to read as  
7 34 follows:

7 35 511.27 COMMISSIONER AS PROCESS AGENT.

~~8 1 Every life insurance company and association organized  
8 2 under the laws of another state or country shall, before  
8 3 receiving a certificate to do business in this state or any  
8 4 renewal thereof of a certificate to do business in this state,  
8 5 file in the office of the commissioner of insurance a power of  
8 6 attorney and an agreement in writing that thereafter service  
8 7 of notice or process of any kind may be made on the  
8 8 commissioner, and when so made that shall be as valid,  
8 9 binding, and effective for all purposes as if served upon the  
8 10 company according to the laws of this or any other state, and  
8 11 waiving all claim or right of error by reason of such  
8 12 acknowledgment of service due to the filing of the power of  
8 13 attorney and the agreement regarding service of notice or  
8 14 process.~~

8 15 Sec. 17. NEW SECTION. 511.40 EMPLOYER == INSURABLE  
8 16 INTEREST.

8 17 1. As used in this section, "employees" includes officers,  
8 18 managers, and directors of an employer, and the shareholders,  
8 19 partners, members, proprietors, or other owners of the  
8 20 employer.

8 21 2. An employer and a trust established by the employer for  
8 22 the benefit of the employer or for the benefit of the  
8 23 employer's active or retired employees has an insurable  
8 24 interest in each of the lives of the employer's active or  
8 25 retired employees and may insure their lives on an individual  
8 26 or group basis.

8 27 3. The amount of coverage on the lives of nonmanagement or  
8 28 nonkey employees shall be reasonably related to the benefit  
8 29 provided to the employees.

8 30 4. On and after July 1, 2003, an employer or trust shall  
8 31 obtain the written consent of each employee being insured by  
8 32 an employer and trust pursuant to this section before insuring  
8 33 the employee's life. The consent shall include an  
8 34 acknowledgment by the employee that the employer or trust may  
8 35 maintain the life insurance after the employee is no longer  
9 1 employed by the employer. An employer shall not retaliate in  
9 2 any manner against an employee who refuses to consent.

9 3 Sec. 18. Section 512B.33, Code 2003, is amended to read as  
9 4 follows:

9 5 512B.33 SERVICE OF PROCESS.

9 6 1. A ~~foreign or alien~~ society authorized to do business in  
9 7 this state shall ~~appoint in writing~~ file in the office of the

9 8 commissioner ~~to be its true and lawful a power of attorney~~  
9 9 ~~upon whom all lawful and an agreement in writing that service~~  
9 10 ~~of process in any action or proceeding against it shall be~~  
9 11 ~~served, and shall agree in the written consent to process that~~  
9 12 ~~any lawful process against it which is the society may be~~  
9 13 served on the commissioner and shall be of the same legal  
9 14 force and validity as if served upon the society, and that the  
9 15 authority shall continue in force so long as any liability  
9 16 remains outstanding in this state. Copies of the ~~appointment~~  
9 17 power of attorney, certified by the commissioner, shall be  
9 18 deemed sufficient evidence of the appointment and shall be  
9 19 admitted in evidence with the same force and effect as the  
9 20 original ~~may be admitted.~~

9 21 2. Service of process shall only be made upon the  
9 22 commissioner, or if absent, upon the person in charge of the  
9 23 commissioner's office. Service shall be made in ~~duplicate~~  
9 24 triplicate and shall constitute sufficient service upon the  
9 25 society. When legal process against a society is served upon  
9 26 the commissioner, the commissioner shall ~~forthwith~~ promptly  
9 27 forward one of the duplicate copies by registered mail,  
9 28 prepaid, directed to the secretary or corresponding officer of  
9 29 the society. ~~Service shall not require a A society shall not~~  
9 30 be required to file its answer, pleading, or defense in less  
9 31 than thirty days from the date of mailing the copy of the  
9 32 service to a society. Legal process shall not be served upon  
9 33 a society except in the manner provided in this section.

9 34 Sec. 19. Section 513C.7, subsection 4, paragraph b, Code  
9 35 2003, is amended to read as follows:

10 1 b. A carrier or an organized delivery system shall waive  
10 2 any time period applicable to a preexisting condition  
10 3 exclusion or limitation period with respect to particular  
10 4 services in an individual health benefit plan for the period  
10 5 of time an individual was previously covered by qualifying  
10 6 previous coverage that provided benefits with respect to such  
10 7 services, provided that the qualifying previous coverage was  
10 8 continuous to a date not more than sixty=three days prior to  
10 9 the effective date of the new coverage. For purposes of this  
10 10 section, periods of coverage under medical assistance provided  
10 11 pursuant to chapter 249A or 514I, or Medicare coverage  
10 12 provided pursuant to Title XVIII of the federal Social  
10 13 Security Act shall not be counted with respect to the sixty=  
10 14 three day requirement.

10 15 Sec. 20. Section 513C.10, subsection 1, paragraph a, Code  
10 16 2003, is amended to read as follows:

10 17 a. All persons that provide health benefit plans in this  
10 18 state including insurers providing accident and sickness  
10 19 insurance under chapter 509, 514, or 514A, whether on an  
10 20 individual or group basis; fraternal benefit societies  
10 21 providing hospital, medical, or nursing benefits under chapter  
10 22 512B; and health maintenance organizations, organized delivery  
10 23 systems, and all other entities providing health insurance or  
10 24 health benefits subject to state insurance regulation shall be  
10 25 members of the association.

10 26 Sec. 21. Section 513C.10, subsection 6, Code 2003, is  
10 27 amended to read as follows:

10 28 6. The assessable loss plus necessary operating expenses  
10 29 for the association, plus any additional expenses as provided  
10 30 by law, shall be assessed by the association to all members in  
10 31 proportion to their respective shares of total health  
10 32 insurance premiums or payments for subscriber contracts  
10 33 received in Iowa during the second preceding calendar year, or  
10 34 with paid losses in the year, coinciding with or ending during  
10 35 the calendar year, or on any other equitable basis as provided  
11 1 in the plan of operation. In sharing losses, the association  
11 2 may abate or defer any part of the assessment of a member, if,  
11 3 in the opinion of the board, payment of the assessment would  
11 4 endanger the ability of the member to fulfill its contractual  
11 5 obligations. The association may also provide for an initial  
11 6 or interim assessment against the members of the association  
11 7 to meet the operating expenses of the association until the  
11 8 next calendar year is completed. For purposes of this  
11 9 subsection, "total health insurance premiums" and "payments  
11 10 for subscriber contracts" include, without limitation,  
11 11 premiums or other amounts paid to or received by a member for  
11 12 individual and group health plan care coverage provided under  
11 13 any chapter of the Code or Acts, and "paid losses" includes,  
11 14 without limitation, claims paid by a member operating on a  
11 15 self=funded basis for individual and group health plan care  
11 16 coverage provided under any chapter of the Code or Acts. For  
11 17 purposes of calculating and conducting the assessment, the  
11 18 association shall have the express authority to require

11 19 members to report on an annual basis each member's total  
11 20 health insurance premiums and payments for subscriber  
11 21 contracts. A member is liable for its share of the assessment  
11 22 calculated in accordance with this section regardless of  
11 23 whether it participates in the individual insurance market.  
11 24 Sec. 22. NEW SECTION. 514.2A SERVICE OF PROCESS.  
11 25 A nonprofit health service corporation authorized to do  
11 26 business in this state shall file in the office of the  
11 27 commissioner a power of attorney and an agreement in writing  
11 28 that service of process in any action or proceeding against  
11 29 the corporation may be served on the commissioner and shall be  
11 30 of the same legal force and validity as if served upon the  
11 31 corporation, and that the authority shall continue in force so  
11 32 long as any liability remains outstanding in this state.  
11 33 Copies of the power of attorney, certified by the  
11 34 commissioner, shall be deemed sufficient evidence of the  
11 35 appointment and shall be admitted in evidence with the same  
12 1 force and effect as the original.  
12 2 Sec. 23. Section 514B.3, subsection 10, Code 2003, is  
12 3 amended to read as follows:  
12 4 10. A power of attorney executed by any applicant ~~who is~~  
~~12 5 not domiciled in this state~~ appointing the commissioner, the  
12 6 commissioner's successors in office, and deputies ~~as the true~~  
~~12 7 and lawful attorney of the applicant for this state upon whom~~  
~~12 8 all lawful to receive~~ process in any legal action or  
12 9 proceeding against the health maintenance organization on a  
12 10 cause of action arising in this state ~~may be served.~~  
12 11 Sec. 24. Section 514B.12, unnumbered paragraph 1, Code  
12 12 2003, is amended to read as follows:  
12 13 A health maintenance organization shall annually on or  
12 14 before the first day of March file with the commissioner or a  
12 15 depository designated by the commissioner a report verified by  
12 16 at least two of its principal officers and covering the  
12 17 preceding calendar year. The report shall be on forms  
12 18 prescribed by the commissioner and shall include:  
12 19 Sec. 25. Section 514B.33, Code 2003, is amended by adding  
12 20 the following new subsection:  
12 21 NEW SUBSECTION. 1A. When not otherwise provided, a  
12 22 foreign or domestic limited service organization doing  
12 23 business in this state shall pay the commissioner the fees as  
12 24 required in section 511.24.  
12 25 Sec. 26. Section 514J.7, subsection 8, Code 2003, is  
12 26 amended to read as follows:  
12 27 8. The confidentiality of any medical records submitted  
12 28 shall be maintained pursuant to applicable state and federal  
12 29 laws. Other than the sharing of information required by this  
12 30 chapter and the rules adopted pursuant to this chapter, the  
12 31 commissioner shall keep confidential the information obtained  
12 32 in the external review process pursuant to section 505.8,  
12 33 subsection 6.  
12 34 Sec. 27. Section 514J.10, Code 2003, is amended to read as  
12 35 follows:  
13 1 514J.10 REPORTING.  
13 2 ~~Each carrier and organized delivery system shall file The~~  
~~13 3 commissioner shall prepare~~ an annual report ~~with the~~  
~~13 4 commissioner~~ containing all of the following:  
13 5 1. The number of external reviews requested.  
13 6 2. The number of the external reviews certified by the  
13 7 commissioner.  
13 8 3. The number of coverage decisions which were upheld by  
13 9 an independent review entity.  
13 10 The commissioner shall prepare ~~a~~ the report by January 31  
13 11 of each year.  
13 12 Sec. 28. Section 514J.13, Code 2003, is amended to read as  
13 13 follows:  
13 14 514J.13 EFFECT OF EXTERNAL REVIEW DECISION.  
13 15 1. The review decision by the independent review entity  
13 16 conducting the review is binding upon the carrier or organized  
13 17 delivery system.  
13 18 2. The enrollee or the enrollee's treating health care  
13 19 provider acting on behalf of the enrollee may appeal the  
13 20 review decision by the independent review entity conducting  
13 21 the review by filing a petition for judicial review either in  
13 22 Polk county district court or in the district court in the  
13 23 county in which the enrollee resides. The petition for  
13 24 judicial review must be filed within fifteen business days  
13 25 after the issuance of the review decision. The commissioner  
13 26 shall not be named as a defendant in a petition for judicial  
13 27 review of an independent review decision, unless the  
13 28 petitioner alleges that the commissioner's actions in the  
13 29 external review process fall within those actions permitted by

13 30 section 17A.19, subsection 10. Allegations against the  
13 31 commissioner under section 17A.19, subsection 10, must be  
13 32 stated with particularity. The findings of fact by the  
13 33 independent review entity conducting the review are conclusive  
13 34 and binding on appeal.

13 35 3. The carrier or organized delivery system shall follow  
14 1 and comply with the review decision of the independent review  
14 2 entity conducting the review, or the decision of the court on  
14 3 appeal. The carrier or organized delivery system and the  
14 4 enrollee's treating health care provider shall not be subject  
14 5 to any penalties, sanctions, or award of damages for following  
14 6 and complying in good faith with the review decision of the  
14 7 independent review entity conducting the review or decision of  
14 8 the court on appeal.

14 9 4. The enrollee or the enrollee's treating health care  
14 10 provider may bring an action in Polk county district court or  
14 11 in the district court in the county in which the enrollee  
14 12 resides to enforce the review decision of the independent  
14 13 review entity conducting the review or the decision of the  
14 14 court on appeal.

14 15 Sec. 29. Section 515.35, subsection 4, paragraph m, Code  
14 16 2003, is amended by adding the following new unnumbered  
14 17 paragraph:

14 18 NEW UNNUMBERED PARAGRAPH. "Venture capital fund" includes  
14 19 an equity interest in the Iowa fund of funds as defined in  
14 20 section 15E.62.

14 21 Sec. 30. Section 515.63, unnumbered paragraph 1, Code  
14 22 2003, is amended to read as follows:

14 23 The president or the vice president and secretary of each  
14 24 company organized or authorized to do business in the state  
14 25 shall annually on or before the first day of March of each  
14 26 year prepare under oath and file with the commissioner of  
14 27 insurance or a depository designated by the commissioner a  
14 28 full, true, and complete statement of the condition of such  
14 29 company on the last day of the preceding year, which shall  
14 30 exhibit the following items and facts:

14 31 Sec. 31. Section 515.73, Code 2003, is amended to read as  
14 32 follows:

14 33 515.73 COMMISSIONER AS PROCESS AGENT.

14 34 Any ~~foreign~~ company desiring to transact the business of  
14 35 insurance under this chapter, ~~by an agent or agents in the~~  
15 1 ~~state,~~ shall file with the commissioner of insurance a power  
15 2 of attorney and a signed written instrument, ~~duly signed and~~  
15 3 ~~sealed,~~ authorizing such the commissioner to acknowledge  
15 4 accept service of notice or process ~~for and in on~~ behalf of  
15 5 such company ~~in this state, and consenting that service of~~  
15 6 ~~notice or process may be made upon the said commissioner, and~~  
15 7 ~~when so made that shall be taken and held as valid as if~~  
15 8 served upon the company according to the laws of this or any  
15 9 other state, and waiving all claim, ~~or right,~~ ~~of error,~~ ~~by~~  
15 10 ~~reason of such acknowledgment of service due to the filing of~~  
15 11 ~~the power of attorney and the agreement regarding service of~~  
15 12 ~~notice or process.~~

15 13 Sec. 32. Section 515.92, Code 2003, is amended to read as  
15 14 follows:

15 15 515.92 STATEMENT OF CAPITAL AND SURPLUS.

15 16 1. Every advertisement or public announcement, and every  
15 17 sign, circular, or card issued or published by a foreign  
15 18 company transacting the business of casualty insurance in the  
15 19 state, or by an officer, agent, or representative ~~thereof,~~  
15 20 that purports to disclose the company's financial standing,  
15 21 shall exhibit the capital actually paid in in cash, and the  
15 22 amount of net surplus of assets over all its liabilities  
15 23 actually held and available for the payment of losses by fire  
15 24 and for the protection of holders of fire policies, and shall  
15 25 also exhibit the amount of net surplus of assets over all  
15 26 liabilities in the United States actually available for the  
15 27 payment of losses by fire and held in the United States for  
15 28 the protection of holders of fire policies in the United  
15 29 States, including in such liabilities the fund reserved for  
15 30 reinsurance of outstanding risks, ~~and the same.~~ The amounts  
15 31 stated for capital and net surplus shall correspond with the  
15 32 latest verified statement made by the company or association  
15 33 to the commissioner of insurance.

15 34 2. The company shall not write, place, or cause to be  
15 35 written or placed, a policy or contract for insurance upon  
16 1 property situated or located in this state except through ~~its~~  
16 2 ~~resident agent or agents~~ a licensed producer authorized to do  
16 3 business in this state.

16 4 Sec. 33. Section 515.133, Code 2003, is amended to read as  
16 5 follows:

16 6 515.133 EXAMINATION OF OFFICERS AND EMPLOYEES.

16 7 1. The commissioner of insurance is authorized to ~~summon~~  
~~16 8 before the commissioner, issue a subpoena for examination~~  
16 9 under oath, any officer, agent, or employee of any ~~such~~  
16 10 company suspected of violating any of the provisions of  
16 11 section 515.131, ~~and, on,~~

16 12 2. Upon the filing of a written, verified complaint to  
16 13 with the commissioner in writing by two or more residents of  
16 14 this state charging such alleging that a company under oath  
~~16 15 upon their knowledge or belief with violating the provisions~~  
~~16 16 of said has violated section 515.131, the commissioner shall~~  
16 17 summon issue a subpoena for examination under oath to any  
16 18 officer, agent, or employee of ~~said the~~ company ~~before the~~  
~~16 19 commissioner for examination under oath.~~

16 20 Sec. 34. Section 515.134, Code 2003, is amended to read as  
16 21 follows:

16 22 515.134 REVOCATION OF AUTHORITY.

16 23 If upon ~~such~~ examination, and that of any other witness  
16 24 produced and examined, the commissioner ~~shall determine~~  
16 25 determines that such a company is guilty of a violation of any  
~~16 26 of the provisions of has violated section 515.131, or if any~~  
16 27 such officer, agent, or employee after being duly summoned  
~~16 28 shall fail fails to appear or submit to examination after~~  
16 29 receiving a subpoena, the commissioner shall forthwith  
16 30 promptly issue an order revoking the authority of such the  
16 31 company to transact business within this state, and it the  
~~16 32 company shall not thereafter be permitted to do the business~~  
16 33 of fire insurance in this state at any time within for one  
16 34 year therefrom.

16 35 Sec. 35. Section 515B.2, subsection 2, Code 2003, is  
17 1 amended to read as follows:

17 2 2. "Claimant" means an insured making a first party claim  
17 3 or any person instituting a liability claim against ~~the~~  
17 4 insured of an insolvent insurer. "Claimant" does not include  
17 5 a person who is an affiliate of an insolvent insurer.

17 6 Sec. 36. Section 515B.8, subsection 1, Code 2003, is  
17 7 amended to read as follows:

17 8 1. Any person recovering under this chapter shall be  
17 9 deemed to have assigned the person's rights under the policy  
17 10 to the association to the extent of the person's recovery from  
17 11 the association. Every insured or claimant seeking the  
17 12 protection of this chapter shall co-operate with the  
17 13 association to the same extent as such person would have been  
17 14 required to co-operate with the insolvent insurer. The  
17 15 association shall have no cause of action against the insured  
17 16 of the insolvent insurer for any sums it has paid out except  
17 17 causes of action the insolvent insurer would have had if the  
17 18 sums had been paid by the insolvent insurer.

17 19 Sec. 37. Section 515B.9, subsection 1, Code 2003, is  
17 20 amended by striking the subsection and inserting in lieu  
17 21 thereof the following:

17 22 1. Any person having a claim under an insurance policy,  
17 23 and the claim under such other policy alleges the same damages  
17 24 or arises from the same facts, injury, or loss that gives rise  
17 25 to a covered claim against the association, shall be required  
17 26 to first exhaust all coverage provided by that policy, whether  
17 27 such coverage is on a primary, excess, or pro rata basis and  
17 28 any obligation of the association shall not be considered  
17 29 other insurance.

17 30 Any amount payable on a covered claim shall be reduced by  
17 31 the full applicable limits of such other insurance policy and  
17 32 the association shall receive full credit for such limits or  
17 33 where there are no applicable limits, the claim shall be  
17 34 reduced by the total recovery.

17 35 a. A policy providing liability coverage to a person who  
18 1 may be jointly and severally liable with, or a joint  
18 2 tortfeasor with, the person covered under the policy of the  
18 3 insolvent insurer shall be first exhausted before any claim is  
18 4 made against the association and the association shall receive  
18 5 credit for the same as provided above.

18 6 b. For purposes of this section, an insurance policy means  
18 7 a policy issued by an insurance company, whether or not a  
18 8 member insurer, which policy insures any of the types of risks  
18 9 insured by an insurance company authorized to write insurance  
18 10 under chapter 515, 516A, or 520, or comparable statutes of  
18 11 another state, except those types of risks set forth in  
18 12 chapters 508 and 514.

18 13 Sec. 38. Section 515B.16, Code 2003, is amended to read as  
18 14 follows:

18 15 515B.16 ACTIONS AGAINST THE ASSOCIATION.

18 16 Any action against the association shall be brought against

18 17 the association in the association's own name. The Polk  
18 18 county district court shall have exclusive jurisdiction and  
18 19 venue of such actions. Service of the original notice in  
18 20 actions against the association may be made on any officer of  
18 21 the association or upon the commissioner of insurance on  
18 22 behalf of the association. The commissioner shall promptly  
18 23 transmit any notice so served upon the commissioner to the  
18 24 association. Any action against the association shall be  
18 25 commenced within three years after the date of the order of  
18 26 liquidation.

18 27 Sec. 39. Section 515D.5, subsection 1, unnumbered  
18 28 paragraph 1, Code 2003, is amended to read as follows:  
18 29 Notwithstanding the provisions of sections 515.80 through  
18 30 515.81A, a notice of cancellation of a policy shall not be  
18 31 effective unless mailed or delivered by the insurer to the  
18 32 named insured at least ~~twenty~~ thirty days prior to the  
18 33 effective date of cancellation, or, where the cancellation is  
18 34 for nonpayment of premium notwithstanding the provisions of  
18 35 sections 515.80 and 515.81A at least ten days prior to the  
19 1 date of cancellation. A post office department certificate of  
19 2 mailing to the named insured at the address shown in the  
19 3 policy shall be proof of receipt of such mailing. Unless the  
19 4 reason accompanies the notice of cancellation, the notice  
19 5 shall state that, upon written request of the named insured,  
19 6 mailed or delivered to the insurer not less than fifteen days  
19 7 prior to the date of cancellation, the insurer will state the  
19 8 reason for cancellation, together with notification of the  
19 9 right to a hearing before the commissioner within fifteen days  
19 10 as provided in this chapter.

19 11 Sec. 40. Section 515D.10, Code 2003, is amended to read as  
19 12 follows:

19 13 515D.10 HEARING BEFORE COMMISSIONER.

19 14 Any named insured who has received a statement of reason  
19 15 for cancellation, or of reason for an insurer's intent not to  
19 16 renew a policy, may, within fifteen days of the receipt or  
19 17 delivery of a statement of reason, request a hearing before  
19 18 the commissioner of insurance. The purpose of this hearing  
19 19 shall be limited to establishing the existence of the proof or  
19 20 evidence used by the insurer in its reason for cancellation or  
19 21 intent not to renew. The burden of proof of the reason for  
19 22 cancellation or intent not to renew shall be upon the insurer.  
19 23 Other than the sharing of information required by this chapter  
19 24 and the rules adopted pursuant to the provisions of this  
19 25 chapter, the commissioner shall keep confidential the  
19 26 information obtained from the insured or in the hearing  
19 27 process, pursuant to section 505.8, subsection 6. The

19 28 commissioner of insurance shall adopt rules for carrying out  
19 29 the provisions of this section.

19 30 Sec. 41. Section 515E.3, Code 2003, is amended by adding  
19 31 the following new unnumbered paragraph:

19 32 NEW UNNUMBERED PARAGRAPH. A risk retention group organized  
19 33 in this state shall file in the office of the commissioner a  
19 34 power of attorney and an agreement in writing that service of  
19 35 process in any action or proceeding against the society may be  
20 1 served on the commissioner and shall be of the same legal  
20 2 force and validity as if served upon the society, and that the  
20 3 authority shall continue in force so long as any liability  
20 4 remains outstanding in this state. Copies of the power of  
20 5 attorney, certified by the commissioner, shall be deemed  
20 6 sufficient evidence of the appointment and shall be admitted  
20 7 in evidence with the same force and effect as the original.

20 8 Sec. 42. Section 518.15, unnumbered paragraph 1, Code  
20 9 2003, is amended to read as follows:

20 10 The president or the vice president and secretary of each  
20 11 association authorized to do business under this chapter shall  
20 12 annually on or before the first day of March prepare under  
20 13 oath and file with the commissioner of insurance or a  
20 14 depository designated by the commissioner a full, true and  
20 15 complete statement of the condition of such association on the  
20 16 last day of the preceding year. The commissioner of insurance  
20 17 shall prescribe the report forms and shall determine the  
20 18 information and data to be reported.

20 19 Sec. 43. Section 518.23, subsection 2, paragraph a, Code  
20 20 2003, is amended to read as follows:

20 21 a. Except as provided in paragraph "b", notice of  
20 22 cancellation is not effective unless mailed or delivered by  
20 23 the association to the named insured at least ~~twenty~~ thirty  
20 24 days before the effective date of cancellation.

20 25 Sec. 44. Section 518A.29, subsection 2, paragraph a, Code  
20 26 2003, is amended to read as follows:

20 27 a. Except as provided in paragraph "b", notice of

20 28 cancellation is not effective unless mailed or delivered by  
20 29 the association to the named insured at least ~~twenty~~ thirty  
20 30 days before the effective date of cancellation.

20 31 Sec. 45. Section 521C.3, subsection 4, paragraph b, Code  
20 32 2003, is amended to read as follows:

20 33 b. ~~if the applicant for a~~ A reinsurance intermediary  
20 34 license is a nonresident, such applicant, as a condition  
20 35 precedent to receiving or holding a license, shall designate  
21 1 the commissioner as agent for service of process, and also  
21 2 shall furnish the commissioner with the name and address of a  
21 3 resident of this state upon whom notices or orders of the  
21 4 commissioner or process affecting such nonresident reinsurance  
21 5 intermediary may be served. The licensee shall promptly  
21 6 notify the commissioner in writing of a change of the  
21 7 designated agent for service of process, and the change  
21 8 becomes effective upon acknowledgment by the commissioner.

21 9 Sec. 46. Section 523.7, Code 2003, is amended to read as  
21 10 follows:

21 11 523.7 STATEMENT OF STOCK OWNERSHIP FILED WITH  
21 12 COMMISSIONER.

21 13 1. Every person who is directly or indirectly the  
21 14 beneficial owner of more than ten percent of any class of any  
21 15 equity security of a domestic stock insurance company, or who  
21 16 is a director or an officer of such company, shall file in the  
21 17 office of the commissioner of insurance ~~within ten days after~~  
21 18 ~~the person becomes such beneficial owner, director or officer~~  
21 19 ~~as prescribed by rule~~ a statement, in ~~such a~~ form as the  
21 20 commissioner may prescribe, of the amount of any equity  
21 21 securities of ~~such the~~ company of which the person is the  
21 22 beneficial owner, ~~and within ten days after the close of each~~  
21 23 ~~calendar month thereafter~~

21 24 2. ~~Within the time frame prescribed by rule, if there has~~  
21 25 ~~been a change in such the ownership during such month a time~~  
21 26 ~~period prescribed by rule, a person who is directly or~~  
21 27 ~~indirectly the beneficial owner of more than ten percent of~~  
21 28 ~~any class of any equity security of a domestic stock insurance~~  
21 29 ~~company, or who is a director or an officer of such company,~~  
21 30 shall file in the office of the commissioner a statement, in  
21 31 ~~such a~~ form as the commissioner may prescribe, indicating the  
21 32 person's ownership at the close of the ~~calendar month time~~  
21 33 ~~period prescribed by rule~~ and ~~such any~~ changes in the person's  
21 34 ownership as have occurred during ~~such calendar month the time~~  
21 35 ~~period prescribed by rule.~~

22 1 Sec. 47. Sections 511.30, 515.78, and 518A.43, Code 2003,  
22 2 are repealed.

22 3 Sec. 48. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.  
22 4 This section and the sections of this Act amending sections  
22 5 513C.10, subsection 1, paragraph "a", and subsection 6, being  
22 6 deemed of immediate importance, take effect upon enactment,  
22 7 and apply retroactively to July 1, 1995.

22 8 DIVISION II  
22 9 Sec. 49. NEW SECTION. 505A.1 INTERSTATE INSURANCE  
22 10 PRODUCT REGULATION COMPACT.

22 11 The interstate insurance product regulation compact is  
22 12 hereby entered into and enacted into law with all  
22 13 jurisdictions legally joining therein, in the form  
22 14 substantially as follows:

22 15 ARTICLE I == PURPOSES

22 16 The purposes of this compact are, through means of joint  
22 17 and cooperative action among the compacting states:

22 18 1. To promote and protect the interest of consumers of  
22 19 individual and group annuity, life insurance, disability  
22 20 income and long-term care insurance products.

22 21 2. To develop uniform standards for insurance products  
22 22 covered under this compact.

22 23 3. To establish a central clearinghouse to receive and  
22 24 provide prompt review of insurance products covered under the  
22 25 compact and, in certain cases, advertisements related thereto,  
22 26 submitted by insurers authorized to do business in one or more  
22 27 compacting states.

22 28 4. To give appropriate regulatory approval to those  
22 29 product filings and advertisements satisfying the applicable  
22 30 uniform standard.

22 31 5. To improve coordination of regulatory resources and  
22 32 expertise between state insurance departments regarding the  
22 33 setting of uniform standards and review of insurance products  
22 34 covered under this compact.

22 35 6. To create the interstate insurance product regulation  
23 1 commission.

23 2 7. To perform these and such other related functions as  
23 3 may be consistent with the state regulation of the business of

23 4 insurance.

23 5 ARTICLE II == DEFINITIONS

23 6 For purposes of this compact, unless the context otherwise  
23 7 requires:

23 8 1. "Advertisement" means any material designed to create  
23 9 public interest in a product, or induce the public to  
23 10 purchase, increase, modify, reinstate, borrow on, surrender,  
23 11 replace or retain a policy, as more specifically defined in  
23 12 the rules and operating procedures of the commission.

23 13 2. "Bylaws" means those bylaws established by the  
23 14 commission for its governance, or for directing or controlling  
23 15 the commission's actions or conduct.

23 16 3. "Commission" means the interstate insurance product  
23 17 regulation commission established by this compact.

23 18 4. "Commissioner" means the chief insurance regulatory  
23 19 official of a state including, but not limited to,  
23 20 commissioner, superintendent, director, or administrator.

23 21 5. "Compacting state" means any state that has enacted  
23 22 this compact legislation and that has not withdrawn pursuant  
23 23 to article XIV, section 1, or been terminated pursuant to  
23 24 article XIV, section 2.

23 25 6. "Domiciliary state" means the state in which an insurer  
23 26 is incorporated or organized, or, in the case of an alien  
23 27 insurer, its state of entry.

23 28 7. "Insurer" means any entity licensed by a state to issue  
23 29 contracts of insurance for any of the lines of insurance  
23 30 covered by this compact.

23 31 8. "Member" means the person chosen by a compacting state  
23 32 as its representative to the commission, or the person's  
23 33 designee.

23 34 9. "Noncompacting state" means any state which is not at  
23 35 the time a compacting state.

24 1 10. "Operating procedures" means procedures promulgated by  
24 2 the commission implementing a rule, uniform standard, or a  
24 3 provision of this compact.

24 4 11. "Product" means the form of a policy or contract,  
24 5 including any application, endorsement, or related form which  
24 6 is attached to and made a part of the policy or contract, and  
24 7 any evidence of coverage or certificate, for an individual or  
24 8 group annuity, life insurance, disability income, or long-term  
24 9 care insurance product that an insurer is authorized to issue.

24 10 12. "Rule" means a statement of general or particular  
24 11 applicability and future effect promulgated by the commission,  
24 12 including a uniform standard developed pursuant to article  
24 13 VII, designed to implement, interpret, or prescribe law or  
24 14 policy, or describing the organization, procedure, or practice  
24 15 requirements of the commission, which shall have the force and  
24 16 effect of law in the compacting states.

24 17 13. "State" means any state, district, or territory of the  
24 18 United States of America.

24 19 14. "Third-party filer" means an entity that submits a  
24 20 product filing to the commission on behalf of an insurer.

24 21 15. "Uniform standard" means a standard adopted by the  
24 22 commission for a product line, pursuant to article VII, and  
24 23 shall include all of the product requirements in aggregate,  
24 24 provided that each uniform standard shall be construed,  
24 25 whether express or implied, to prohibit the use of any  
24 26 inconsistent, misleading, or ambiguous provisions in a  
24 27 product, and the form of the product made available to the  
24 28 public shall not be unfair, inequitable, or against public  
24 29 policy as determined by the commission.

24 30 ARTICLE III == ESTABLISHMENT OF THE COMMISSION AND VENUE

24 31 1. The compacting states hereby create and establish an  
24 32 entity known as the interstate insurance product regulation  
24 33 commission. Pursuant to article IV, the commission has the  
24 34 power to develop uniform standards for product lines, receive  
24 35 and provide prompt review of products filed therewith, and  
25 1 give approval to those product filings satisfying applicable  
25 2 uniform standards, provided it is not intended for the  
25 3 commission to be the exclusive entity for receipt and review  
25 4 of insurance product filings. Nothing herein shall prohibit  
25 5 any insurer from filing its product in any state wherein the  
25 6 insurer is licensed to conduct the business of insurance, and  
25 7 any such filing shall be subject to the laws of the state  
25 8 where filed.

25 9 2. The commission is a body corporate comprising each  
25 10 compacting state.

25 11 3. The commission is a not-for-profit entity, separate and  
25 12 distinct from the individual compacting states.

25 13 4. The commission is solely responsible for its  
25 14 liabilities except as otherwise specifically provided in this

25 15 compact.

25 16 5. Venue is proper and judicial proceedings by or against  
25 17 the commission shall be brought solely and exclusively in a  
25 18 court of competent jurisdiction where the principal office of  
25 19 the commission is located.

25 20 ARTICLE IV == POWERS OF THE COMMISSION

25 21 The commission shall have the following powers:

25 22 1. To promulgate rules, pursuant to article VII, which  
25 23 shall have the force and effect of law and shall be binding in  
25 24 the compacting states to the extent and in the manner provided  
25 25 in this compact.

25 26 2. To exercise its rulemaking authority and establish  
25 27 reasonable uniform standards for products covered under this  
25 28 compact, and advertisement related thereto, which shall have  
25 29 the force and effect of law and shall be binding in the  
25 30 compacting states, but only for those products filed with the  
25 31 commission, provided that a compacting state shall have the  
25 32 right to opt out of such uniform standard pursuant to article  
25 33 VII, to the extent and in the manner provided in this compact,  
25 34 and, provided further, that any uniform standard established  
25 35 by the commission for long-term care insurance products may  
26 1 provide the same or greater protections for consumers as, but  
26 2 shall not provide less than, those protections set forth in  
26 3 the national association of insurance commissioners' long-term  
26 4 care insurance model act and long-term care insurance model  
26 5 regulation, respectively, adopted as of 2001. The commission  
26 6 shall consider whether any subsequent amendments to the long=  
26 7 term care insurance model act or long-term care insurance  
26 8 model regulation adopted by the national association of  
26 9 insurance commissioners require amending of the uniform  
26 10 standards established by the commission for long-term care  
26 11 insurance products.

26 12 3. To receive and review in an expeditious manner products  
26 13 filed with the commission, and rate filings for disability  
26 14 income and long-term care insurance products, and give  
26 15 approval of those products and rate filings that satisfy the  
26 16 applicable uniform standard, where such approval shall have  
26 17 the force and effect of law, and be binding on the compacting  
26 18 states to the extent and in the manner provided in the  
26 19 compact.

26 20 4. To receive and review in an expeditious manner  
26 21 advertisement relating to long-term care insurance products  
26 22 for which uniform standards have been adopted by the  
26 23 commission, and give approval to all advertisement that  
26 24 satisfies the applicable uniform standard. For any product  
26 25 covered under this compact, other than long-term care  
26 26 insurance products, the commission shall have the authority to  
26 27 require an insurer to submit all or any part of its  
26 28 advertisement with respect to that product for review or  
26 29 approval prior to use, if the commission determines that the  
26 30 nature of the product is such that an advertisement of the  
26 31 product could have the capacity or tendency to mislead the  
26 32 public. The actions of the commission as provided in this  
26 33 article shall have the force and effect of law and shall be  
26 34 binding in the compacting states to the extent and in the  
26 35 manner provided in this compact.

27 1 5. To exercise its rulemaking authority and designate  
27 2 products and advertisement that may be subject to a self=  
27 3 certification process without the need for prior approval by  
27 4 the commission.

27 5 6. To promulgate operating procedures, pursuant to article  
27 6 VII, which shall be binding in the compacting states to the  
27 7 extent and in the manner provided in this compact.

27 8 7. To bring and prosecute legal proceedings or actions in  
27 9 its name as the commission, provided that the standing of any  
27 10 state insurance department to sue or be sued under applicable  
27 11 law shall not be affected.

27 12 8. To issue subpoenas requiring the attendance and  
27 13 testimony of witnesses and the production of evidence.

27 14 9. To establish and maintain offices.

27 15 10. To purchase and maintain insurance and bonds.

27 16 11. To borrow, accept, or contract for services of  
27 17 personnel, including, but not limited to, employees of a  
27 18 compacting state.

27 19 12. To hire employees, professionals, or specialists, and  
27 20 elect or appoint officers, and to fix their compensation,  
27 21 define their duties, and give them appropriate authority to  
27 22 carry out the purposes of this compact, and determine their  
27 23 qualifications, and to establish the commission's personnel  
27 24 policies and programs relating to, among other things,  
27 25 conflicts of interest, rates of compensation, and

27 26 qualifications of personnel.  
27 27 13. To accept any and all appropriate donations and grants  
27 28 of money, equipment, supplies, materials, and services, and to  
27 29 receive, utilize, and dispose of the same, provided that at  
27 30 all times the commission shall strive to avoid any appearance  
27 31 of impropriety.  
27 32 14. To lease, purchase, accept appropriate gifts or  
27 33 donations of, or otherwise to own, hold, improve, or use, any  
27 34 property, real, personal, or mixed, provided that at all times  
27 35 the commission shall strive to avoid any appearance of  
28 1 impropriety.  
28 2 15. To sell, convey, mortgage, pledge, lease, exchange,  
28 3 abandon, or otherwise dispose of any property, real, personal,  
28 4 or mixed.  
28 5 16. To remit filing fees to compacting states as may be  
28 6 set forth in the bylaws, rules, or operating procedures.  
28 7 17. To enforce compliance by compacting states with rules,  
28 8 uniform standards, operating procedures, and bylaws.  
28 9 18. To provide for dispute resolution among compacting  
28 10 states.  
28 11 19. To advise compacting states on issues relating to  
28 12 insurers domiciled or doing business in noncompacting  
28 13 jurisdictions, consistent with the purposes of this compact.  
28 14 20. To provide advice and training to those personnel in  
28 15 state insurance departments responsible for product review,  
28 16 and to be a resource for state insurance departments.  
28 17 21. To establish a budget and make expenditures.  
28 18 22. To borrow money.  
28 19 23. To appoint committees, including advisory committees  
28 20 comprising members, state insurance regulators, state  
28 21 legislators or their representatives, insurance industry and  
28 22 consumer representatives, and such other interested persons as  
28 23 may be designated in the bylaws.  
28 24 24. To provide and receive information from, and to  
28 25 cooperate with, law enforcement agencies.  
28 26 25. To adopt and use a corporate seal.  
28 27 26. To perform such other functions as may be necessary or  
28 28 appropriate to achieve the purposes of this compact consistent  
28 29 with the state regulation of the business of insurance.

28 30 ARTICLE V == ORGANIZATION OF THE COMMISSION

28 31 1. MEMBERSHIP, VOTING, AND BYLAWS.

28 32 a. Each compacting state shall have and be limited to one  
28 33 member. Each member shall be qualified to serve in that  
28 34 capacity pursuant to applicable law of the compacting state.  
28 35 Any member may be removed or suspended from office as provided  
29 1 by the law of the state from which the member is appointed.  
29 2 Any vacancy occurring in the commission shall be filled in  
29 3 accordance with the laws of the compacting state wherein the  
29 4 vacancy exists. Nothing herein shall be construed to affect  
29 5 the manner in which a compacting state determines the election  
29 6 or appointment and qualification of its own commissioner.  
29 7 b. Each member shall be entitled to one vote and shall  
29 8 have an opportunity to participate in the governance of the  
29 9 commission in accordance with the bylaws. Notwithstanding any  
29 10 provision herein to the contrary, no action of the commission  
29 11 with respect to the promulgation of a uniform standard shall  
29 12 be effective unless two-thirds of the members vote in favor  
29 13 thereof.

29 14 c. The commission shall, by a majority of the members,  
29 15 prescribe bylaws to govern its conduct as may be necessary or  
29 16 appropriate to carry out the purposes, and exercise the  
29 17 powers, of the compact, including, but not limited to:

29 18 (1) Establishing the fiscal year of the commission.  
29 19 (2) Providing reasonable procedures for appointing and  
29 20 electing members, as well as holding meetings, of the  
29 21 management committee.  
29 22 (3) Providing reasonable standards and procedures:  
29 23 (a) For the establishment of other committees.  
29 24 (b) Governing any general or specific delegation of any  
29 25 authority or function of the commission.  
29 26 (4) Providing reasonable procedures for calling and  
29 27 conducting meetings of the commission, and ensuring reasonable  
29 28 notice of each such meeting.

29 29 (5) Establishing the titles, duties, and authority, and  
29 30 reasonable procedures for the election of the officers of the  
29 31 commission.

29 32 (6) Providing reasonable standards and procedures for the  
29 33 establishment of the personnel policies and programs of the  
29 34 commission. Notwithstanding any civil service or other  
29 35 similar laws of any compacting state, the bylaws shall  
30 1 exclusively govern the personnel policies and programs of the

30 2 commission.  
30 3 (7) Providing a mechanism for winding up the operations of  
30 4 the commission and the equitable disposition of any surplus  
30 5 funds that may exist after the termination of this compact  
30 6 after the payment or reserving of all of its debts and  
30 7 obligations.

30 8 2. MANAGEMENT COMMITTEE, OFFICERS, AND PERSONNEL.

30 9 a. A management committee comprising no more than fourteen  
30 10 members shall be established as follows:

30 11 (1) One member from each of the six compacting states with  
30 12 the largest premium volume for individual and group annuities,  
30 13 life, disability income, and long-term care insurance  
30 14 products, determined from the records of the national  
30 15 association of insurance commissioners for the prior year.

30 16 (2) Four members from those compacting states with at  
30 17 least two percent of the market based on the premium volume  
30 18 described in subparagraph (1), other than the six compacting  
30 19 states with the largest premium volume, selected on a rotating  
30 20 basis as provided in the bylaws.

30 21 (3) Four members from those compacting states with less  
30 22 than two percent of the market, based on the premium volume  
30 23 described subparagraph (1), with one selected from each of the  
30 24 four zone regions of the national association of insurance  
30 25 commissioners as provided in the bylaws.

30 26 b. The management committee shall have such authority and  
30 27 duties as may be set forth in the bylaws, including but not  
30 28 limited to:

30 29 (1) Managing the affairs of the commission in a manner  
30 30 consistent with the bylaws and purposes of the commission.

30 31 (2) Establishing and overseeing an organizational  
30 32 structure within, and appropriate procedures for, the  
30 33 commission to provide for the creation of uniform standards  
30 34 and other rules, receipt and review of product filings,  
30 35 administrative and technical support functions, review of  
31 1 decisions regarding the disapproval of a product filing, and  
31 2 the review of elections made by a compacting state to opt out  
31 3 of a uniform standard, provided that a uniform standard shall  
31 4 not be submitted to the compacting states for adoption unless  
31 5 approved by two-thirds of the members of the management  
31 6 committee.

31 7 (3) Overseeing the offices of the commission.

31 8 (4) Planning, implementing, and coordinating  
31 9 communications and activities with other state, federal, and  
31 10 local government organizations in order to advance the goals  
31 11 of the commission.

31 12 c. The commission shall elect annually officers from the  
31 13 management committee, with each having such authority and  
31 14 duties, as may be specified in the bylaws.

31 15 d. The management committee may, subject to the approval  
31 16 of the commission, appoint or retain an executive director for  
31 17 such period, upon such terms and conditions and for such  
31 18 compensation as the commission may deem appropriate. The  
31 19 executive director shall serve as secretary to the commission,  
31 20 but shall not be a member of the commission. The executive  
31 21 director shall hire and supervise such other staff as may be  
31 22 authorized by the commission.

31 23 3. LEGISLATIVE AND ADVISORY COMMITTEES.

31 24 a. A legislative committee comprising state legislators or  
31 25 their designees shall be established to monitor the operations  
31 26 of, and make recommendations to, the commission, including the  
31 27 management committee, provided that the manner of selection  
31 28 and term of any legislative committee member shall be as set  
31 29 forth in the bylaws. Prior to the adoption by the commission  
31 30 of any uniform standard, revision to the bylaws, annual  
31 31 budget, or other significant matter as may be provided in the  
31 32 bylaws, the management committee shall consult with and report  
31 33 to the legislative committee.

31 34 b. The commission shall establish two advisory committees,  
31 35 one of which shall comprise consumer representatives  
32 1 independent of the insurance industry, and the other  
32 2 comprising insurance industry representatives.

32 3 c. The commission may establish additional advisory  
32 4 committees as its bylaws may provide for the carrying out of  
32 5 its functions.

32 6 4. CORPORATE RECORDS OF THE COMMISSION. The commission  
32 7 shall maintain its corporate books and records in accordance  
32 8 with the bylaws.

32 9 5. QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.

32 10 a. The members, officers, executive director, employees,  
32 11 and representatives of the commission shall be immune from  
32 12 suit and liability, either personally or in their official

32 13 capacity, for any claim for damage to, or loss of, property,  
32 14 personal injury, or other civil liability caused by or arising  
32 15 out of any actual or alleged act, error, or omission that  
32 16 occurred, or that the person against whom the claim is made  
32 17 had a reasonable basis for believing occurred, within the  
32 18 scope of commission employment, duties, or responsibilities,  
32 19 provided that nothing in this paragraph shall be construed to  
32 20 protect any such person from suit or liability for any damage,  
32 21 loss, injury, or liability caused by the intentional or  
32 22 willful and wanton misconduct of that person.

32 23 b. The commission shall defend any member, officer,  
32 24 executive director, employee, or representative of the  
32 25 commission in any civil action seeking to impose liability  
32 26 arising out of any actual or alleged act, error, or omission  
32 27 that occurred within the scope of commission employment,  
32 28 duties, or responsibilities, or that the person against whom  
32 29 the claim is made had a reasonable basis for believing  
32 30 occurred within the scope of commission employment, duties, or  
32 31 responsibilities, provided that nothing herein shall be  
32 32 construed to prohibit that person from retaining the person's  
32 33 own counsel; and, provided further, that the actual or alleged  
32 34 act, error, or omission did not result from that person's  
32 35 intentional or willful and wanton misconduct.

33 1 c. The commission shall indemnify and hold harmless any  
33 2 member, officer, executive director, employee, or  
33 3 representative of the commission for the amount of any  
33 4 settlement or judgment obtained against that person arising  
33 5 out of any actual or alleged act, error, or omission that  
33 6 occurred within the scope of commission employment, duties, or  
33 7 responsibilities, or that such person had a reasonable basis  
33 8 for believing occurred within the scope of commission  
33 9 employment, duties, or responsibilities, provided that the  
33 10 actual or alleged act, error, or omission did not result from  
33 11 the intentional or willful and wanton misconduct of that  
33 12 person.

#### 33 13 ARTICLE VI == MEETINGS AND ACTS OF THE COMMISSION

33 14 1. The commission shall meet and take such actions as are  
33 15 consistent with the provisions of this compact and the bylaws.

33 16 2. Each member of the commission shall have the right and  
33 17 power to cast a vote to which that compacting state is  
33 18 entitled and to participate in the business and affairs of the  
33 19 commission. A member shall vote in person or by such other  
33 20 means as provided in the bylaws. The bylaws may provide for  
33 21 members' participation in meetings by telephone or other means  
33 22 of communication.

33 23 3. The commission shall meet at least once during each  
33 24 calendar year. Additional meetings shall be held as set forth  
33 25 in the bylaws.

#### 33 26 ARTICLE VII == RULES AND OPERATING PROCEDURES ==

##### 33 27 RULEMAKING FUNCTIONS OF THE COMMISSION AND

##### 33 28 OPTING OUT OF UNIFORM STANDARDS

33 29 1. RULEMAKING AUTHORITY. The commission shall promulgate  
33 30 reasonable rules, including uniform standards and operating  
33 31 procedures, in order to effectively and efficiently achieve  
33 32 the purposes of this compact. Notwithstanding the foregoing,  
33 33 in the event the commission exercises its rulemaking authority  
33 34 in a manner that is beyond the scope of the purposes of this  
33 35 compact, or the powers granted hereunder, such an action by  
34 1 the commission shall be invalid and have no force and effect.

34 2 2. RULEMAKING PROCEDURE. Rules and operating procedures  
34 3 shall be made pursuant to a rulemaking process that conforms  
34 4 to the model state administrative procedure act, as may be  
34 5 appropriate to the operations of the commission. Before the  
34 6 commission adopts a uniform standard, the commission shall  
34 7 give written notice to the relevant state legislative  
34 8 committee or committees in each compacting state responsible  
34 9 for insurance issues of its intention to adopt the uniform  
34 10 standard.

34 11 3. EFFECTIVE DATE AND OPT OUT OF A UNIFORM STANDARD. A  
34 12 uniform standard shall become effective ninety days after its  
34 13 promulgation by the commission or such later date as the  
34 14 commission may determine, provided, however, that a compacting  
34 15 state may opt out of a uniform standard as provided in this  
34 16 article. "Opt out" means any action by a compacting state to  
34 17 decline to adopt or participate in a promulgated uniform  
34 18 standard. All other rules and operating procedures, and  
34 19 amendments thereto, shall become effective as of the date  
34 20 specified in each rule, operating procedure, or amendment.

34 21 4. OPT=OUT PROCEDURE. A compacting state may opt out of a  
34 22 uniform standard, either by legislation or regulation duly  
34 23 promulgated by the insurance department under the compacting

34 24 state's administrative procedure act. If a compacting state  
34 25 elects to opt out of a uniform standard by regulation, it must  
34 26 do all of the following:

34 27 a. Give written notice to the commission no later than ten  
34 28 business days after the uniform standard is promulgated, or at  
34 29 the time the state becomes a compacting state.

34 30 b. Find that the uniform standard does not provide  
34 31 reasonable protections to the citizens of the state, given the  
34 32 conditions in the state.

34 33 The commissioner shall make specific findings of fact and  
34 34 conclusions of law, based on a preponderance of the evidence,  
34 35 detailing the conditions in the state which warrant a  
35 1 departure from the uniform standard and determining that the  
35 2 uniform standard would not reasonably protect the citizens of  
35 3 the state. The commissioner must consider and balance the  
35 4 following factors and find that the conditions in the state  
35 5 and needs of the citizens of the state outweigh both of the  
35 6 following:

35 7 (1) The intent of the legislature to participate in, and  
35 8 the benefits of, an interstate agreement to establish national  
35 9 uniform consumer protections for the products subject to this  
35 10 compact.

35 11 (2) The presumption that a uniform standard adopted by the  
35 12 commission provides reasonable protections to consumers of the  
35 13 relevant product.

35 14 Notwithstanding the foregoing, a compacting state may, at  
35 15 the time of its enactment of this compact, prospectively opt  
35 16 out of all uniform standards involving long-term care  
35 17 insurance products by expressly providing for such opt out in  
35 18 the enacted compact, and such an opt out shall not be treated  
35 19 as a material variance in the offer or acceptance of any state  
35 20 to participate in this compact. Such an opt out shall be  
35 21 effective at the time of enactment of this compact by the  
35 22 compacting state and shall apply to all existing uniform  
35 23 standards involving long-term care insurance products and  
35 24 those subsequently promulgated.

35 25 5. EFFECT OF OPT OUT. If a compacting state elects to opt  
35 26 out of a uniform standard, the uniform standard shall remain  
35 27 applicable in the compacting state electing to opt out until  
35 28 such time the opt-out legislation is enacted into law or the  
35 29 regulation opting out becomes effective.

35 30 Once the opt out of a uniform standard by a compacting  
35 31 state becomes effective, as provided under the laws of that  
35 32 state, the uniform standard shall have no further force and  
35 33 effect in that state unless and until the legislation or  
35 34 regulation implementing the opt out is repealed or otherwise  
35 35 becomes ineffective under the laws of the state. If a  
36 1 compacting state opts out of a uniform standard after the  
36 2 uniform standard has been made effective in that state, the  
36 3 opt out shall have the same prospective effect as provided  
36 4 under article XIV for withdrawals.

#### 36 5 ARTICLE VIII == COMMISSION RECORDS AND ENFORCEMENT

36 6 1. The commission shall promulgate rules to establish  
36 7 conditions and procedures under which the commission shall  
36 8 make its information and official records available to the  
36 9 public for inspection or copying. The commission may  
36 10 promulgate additional rules under which it may make available  
36 11 to federal and state agencies, including law enforcement  
36 12 agencies, records, and information otherwise exempt from  
36 13 disclosure, and may enter into agreements with such agencies  
36 14 to receive or exchange information or records subject to  
36 15 nondisclosure and confidentiality provisions.

36 16 2. Except as to privileged records, data, and information,  
36 17 the laws of any compacting state pertaining to confidentiality  
36 18 or nondisclosure shall not relieve any compacting state  
36 19 commissioner of the duty to disclose any relevant records,  
36 20 data, or information to the commission, provided that  
36 21 disclosure to the commission shall not be deemed to waive or  
36 22 otherwise affect any confidentiality requirement, and further  
36 23 provided that, except as otherwise expressly provided in this  
36 24 compact, the commission shall not be subject to the compacting  
36 25 state's laws pertaining to confidentiality and nondisclosure  
36 26 with respect to records, data, and information in its  
36 27 possession. Confidential information of the commission shall  
36 28 remain confidential after such information is provided to any  
36 29 commissioner.

36 30 3. The commission shall monitor compacting states for  
36 31 compliance with duly adopted bylaws, rules, including uniform  
36 32 standards, and operating procedures. The commission shall  
36 33 notify any noncomplying compacting state in writing of its  
36 34 noncompliance with commission bylaws, rules, or operating

36 35 procedures. If a noncomplying compacting state fails to  
37 1 remedy its noncompliance within the time specified in the  
37 2 notice of noncompliance, the compacting state shall be deemed  
37 3 to be in default as set forth in article XIV.

37 4 4. The commissioner of any state in which an insurer is  
37 5 authorized to do business, or is conducting the business of  
37 6 insurance, shall continue to exercise the commissioner's  
37 7 authority to oversee the market regulation of the activities  
37 8 of the insurer in accordance with the provisions of the  
37 9 state's law. The commissioner's enforcement of compliance  
37 10 with the compact is governed by the following provisions:

37 11 a. With respect to the commissioner's market regulation of  
37 12 a product or advertisement that is approved or certified to  
37 13 the commission, no activity of an insurer shall constitute a  
37 14 violation of the provisions, standards, or requirements of  
37 15 this compact except upon a final order of the commission,  
37 16 issued at the request of a commissioner after prior notice to  
37 17 the insurer and an opportunity for hearing before the  
37 18 commission.

37 19 b. Before a commissioner may bring an action for violation  
37 20 of any provision, standard, or requirement of this compact  
37 21 relating to the use of an advertisement not approved or  
37 22 certified to the commission, the commission, or an authorized  
37 23 commission officer or employee, must authorize the action.  
37 24 However, authorization pursuant to this paragraph does not  
37 25 require notice to the insurer, opportunity for hearing, or  
37 26 disclosure of requests for authorization or records of the  
37 27 commissioner's action on such requests.

37 28 5. STAY OF UNIFORM STANDARD. If a compacting state has  
37 29 formally initiated the process of opting out of a uniform  
37 30 standard by regulation, and while the regulatory opt out is  
37 31 pending, the compacting state may petition the commission, at  
37 32 least fifteen days before the effective date of the uniform  
37 33 standard, to stay the effectiveness of the uniform standard in  
37 34 that state. The commission may grant a stay if it determines  
37 35 the regulatory opt out is being pursued in a reasonable manner  
38 1 and there is a likelihood of success. If a stay is granted or  
38 2 extended by the commission, the stay or extension thereof may  
38 3 postpone the effective date by up to ninety days, unless  
38 4 affirmatively extended by the commission, provided a stay may  
38 5 not be permitted to remain in effect for more than one year  
38 6 unless the compacting state can show extraordinary  
38 7 circumstances which warrant a continuance of the stay,  
38 8 including, but not limited to, the existence of a legal  
38 9 challenge which prevents the compacting state from opting out.  
38 10 A stay may be terminated by the commission upon notice that  
38 11 the rulemaking process has been terminated.

38 12 6. Not later than thirty days after a rule or operating  
38 13 procedure is adopted, any person may file a petition for  
38 14 judicial review of the rule or operating procedure, provided  
38 15 that the filing of such a petition shall not stay or otherwise  
38 16 prevent the rule or operating procedure from becoming  
38 17 effective unless the court finds that the petitioner has a  
38 18 substantial likelihood of success. The court shall give  
38 19 deference to the actions of the commission consistent with  
38 20 applicable law and shall not find the rule or operating  
38 21 procedure to be unlawful if the rule or operating procedure  
38 22 represents a reasonable exercise of the commission's  
38 23 authority.

#### 38 24 ARTICLE IX == DISPUTE RESOLUTION

38 25 The commission shall attempt, upon the request of a member,  
38 26 to resolve any disputes or other issues which are subject to  
38 27 this compact and which may arise between two or more  
38 28 compacting states, or between compacting states and  
38 29 noncompacting states, and the commission shall promulgate an  
38 30 operating procedure providing for resolution of such disputes.

#### 38 31 ARTICLE X == PRODUCT FILING AND APPROVAL

38 32 1. Insurers and third-party filers seeking to have a  
38 33 product approved by the commission shall file the product  
38 34 with, and pay applicable filing fees to, the commission.  
38 35 Nothing in this compact shall be construed to restrict or  
39 1 otherwise prevent an insurer from filing its product with the  
39 2 insurance department in any state wherein the insurer is  
39 3 licensed to conduct the business of insurance, and such filing  
39 4 shall be subject to the laws of the states where filed.

39 5 2. The commission shall establish appropriate filing and  
39 6 review processes and procedures pursuant to commission rules  
39 7 and operating procedures. Notwithstanding any provision  
39 8 herein to the contrary, the commission shall promulgate rules  
39 9 to establish conditions and procedures under which the  
39 10 commission will provide public access to product filing

39 11 information. In establishing such rules, the commission shall  
39 12 consider the interests of the public in having access to such  
39 13 information, as well as protection of personal medical and  
39 14 financial information and trade secrets, that may be contained  
39 15 in a product filing or supporting information.

39 16 3. Any product approved by the commission may be sold or  
39 17 otherwise issued in those compacting states in which the  
39 18 insurer is legally authorized to do business.

39 19 ARTICLE XI == REVIEW OF COMMISSION DECISIONS  
39 20 REGARDING FILINGS

39 21 1. Not later than thirty days after the commission has  
39 22 given notice of a disapproved product or advertisement filed  
39 23 with the commission, the insurer or third-party filer whose  
39 24 filing was disapproved may appeal the determination to a  
39 25 review panel appointed by the commission. The commission  
39 26 shall adopt rules to establish procedures for appointing such  
39 27 review panels and provide for notice and hearing. The  
39 28 decision of the review panel shall be the final action of the  
39 29 commission and not subject to review by any court.  
39 30 Notwithstanding the foregoing, an allegation that the  
39 31 commission, in disapproving a product or advertisement filed  
39 32 with the commission, acted arbitrarily, capriciously, or in a  
39 33 manner that is an abuse of discretion or otherwise not in  
39 34 accordance with the law, is subject to judicial review in  
39 35 accordance with article III, section 5.

40 1 2. The commission shall have authority to monitor, review,  
40 2 and reconsider products and advertisement subsequent to their  
40 3 filing or approval upon a finding that the product does not  
40 4 meet the relevant uniform standard. Where appropriate, the  
40 5 commission may withdraw or modify its approval after proper  
40 6 notice and hearing, subject to the appeal process in section  
40 7 1.

40 8 ARTICLE XII == FINANCE

40 9 1. The commission shall pay or provide for the payment of  
40 10 the reasonable expenses of its establishment and organization.  
40 11 To fund the cost of its initial operations, the commission may  
40 12 accept contributions and other forms of funding from the  
40 13 national association of insurance commissioners, compacting  
40 14 states, and other sources. Contributions and other forms of  
40 15 funding from other sources shall be of such a nature that the  
40 16 independence of the commission concerning the performance of  
40 17 its duties shall not be compromised.

40 18 2. The commission shall collect a filing fee from each  
40 19 insurer and third-party filer filing a product with the  
40 20 commission to cover the cost of the operations and activities  
40 21 of the commission and its staff in a total amount sufficient  
40 22 to cover the commission's annual budget.

40 23 3. The commission's budget for a fiscal year shall not be  
40 24 approved until it has been subject to notice and comment as  
40 25 set forth in article VII.

40 26 4. The commission shall be exempt from all taxation in and  
40 27 by the compacting states.

40 28 5. The commission shall not pledge the credit of any  
40 29 compacting state, except by and with the appropriate legal  
40 30 authority of that compacting state.

40 31 6. The commission shall keep complete and accurate  
40 32 accounts of all its internal receipts, including grants and  
40 33 donations, and disbursements of all funds under its control.  
40 34 The internal financial accounts of the commission shall be  
40 35 subject to the accounting procedures established under its  
41 1 bylaws. The financial accounts and reports, including the  
41 2 system of internal controls and procedures of the commission,  
41 3 shall be audited annually by an independent certified public  
41 4 accountant. Upon the determination of the commission, but no  
41 5 less frequently than every three years, the review of the  
41 6 independent auditor shall include a management and performance  
41 7 audit of the commission. The commission shall make an annual  
41 8 report to the governor and legislature of the compacting  
41 9 states, which shall include a report of the independent audit.  
41 10 The commission's internal accounts, any work papers related to  
41 11 any internal audit, and any work papers related to the  
41 12 independent audit, shall be confidential, provided that such  
41 13 materials may be shared with the commissioner of any  
41 14 compacting state and shall remain confidential pursuant to  
41 15 article VII.

41 16 7. A compacting state shall not have any claim to or  
41 17 ownership of any property held by or vested in the commission  
41 18 or to any commission funds held pursuant to the provisions of  
41 19 this compact.

41 20 ARTICLE XIII == COMPACTING STATES,  
41 21 EFFECTIVE DATE, AND AMENDMENT

41 22 1. Any state is eligible to become a compacting state.  
41 23 2. This compact shall become effective and binding upon  
41 24 legislative enactment of this compact into law by two  
41 25 compacting states, provided the commission shall become  
41 26 effective for purposes of adopting uniform standards for  
41 27 reviewing, and giving approval or disapproval of, products  
41 28 filed with the commission that satisfy applicable uniform  
41 29 standards only after twenty-six states are compacting states  
41 30 or, alternatively, by states representing greater than forty  
41 31 percent of the premium volume for life insurance, annuity,  
41 32 disability income, and long-term care insurance products,  
41 33 based on records of the national association of insurance  
41 34 commissioners for the prior year. Thereafter, it shall become  
41 35 effective and binding as to any other compacting state upon  
42 1 enactment of this compact into law by that state.

42 2 3. Amendments to this compact may be proposed by the  
42 3 commission for enactment by the compacting states. An  
42 4 amendment shall not become effective and binding upon the  
42 5 commission and the compacting states unless and until all  
42 6 compacting states enact the amendment into law.

42 7 ARTICLE XIV == WITHDRAWAL, DEFAULT, AND TERMINATION

42 8 1. WITHDRAWAL.

42 9 a. Once effective, this compact shall continue in force  
42 10 and remain binding upon each and every compacting state,  
42 11 provided that a compacting state may withdraw from this  
42 12 compact by enacting a statute specifically repealing the  
42 13 statute which enacted the compact into law.

42 14 b. The effective date of withdrawal is the effective date  
42 15 of the repealing statute. However, the withdrawal shall not  
42 16 apply to any product filings approved or self-certified, or  
42 17 any advertisement of such products, on the date the repealing  
42 18 statute becomes effective, except by mutual agreement of the  
42 19 commission and the withdrawing state unless the approval is  
42 20 rescinded by the withdrawing state as provided in paragraph  
42 21 "e".

42 22 c. The commissioner of the withdrawing state shall  
42 23 immediately notify the management committee in writing upon  
42 24 the introduction of legislation repealing this compact in the  
42 25 withdrawing state.

42 26 d. The commission shall notify the other compacting states  
42 27 of the introduction of such legislation within ten days after  
42 28 its receipt of notice.

42 29 e. The withdrawing state is responsible for all  
42 30 obligations, duties, and liabilities incurred through the  
42 31 effective date of withdrawal, including any obligations, the  
42 32 performance of which extend beyond the effective date of  
42 33 withdrawal, except to the extent those obligations may have  
42 34 been released or relinquished by mutual agreement of the  
42 35 commission and the withdrawing state. The commission's  
43 1 approval of products and advertisement prior to the effective  
43 2 date of withdrawal shall continue to be effective and be given  
43 3 full force and effect in the withdrawing state, unless  
43 4 formally rescinded by the withdrawing state in the same manner  
43 5 as provided by the laws of the withdrawing state for the  
43 6 prospective disapproval of products or advertisement  
43 7 previously approved under state law.

43 8 f. Reinstatement following withdrawal of any compacting  
43 9 state shall occur upon the effective date of the withdrawing  
43 10 state reenacting the compact.

43 11 2. DEFAULT.

43 12 a. If the commission determines that any compacting state  
43 13 has at any time defaulted in the performance of any of its  
43 14 obligations or responsibilities under this compact, the bylaws  
43 15 or duly promulgated rules or operating procedures, then, after  
43 16 notice and hearing as set forth in the bylaws, all rights,  
43 17 privileges, and benefits conferred by this compact on the  
43 18 defaulting state shall be suspended from the effective date of  
43 19 default as fixed by the commission. The grounds for default  
43 20 include, but are not limited to, failure of a compacting state  
43 21 to perform its obligations or responsibilities, and any other  
43 22 grounds designated in commission rules. The commission shall  
43 23 immediately notify the defaulting state in writing of the  
43 24 defaulting state's suspension, pending a cure of the default.  
43 25 The commission shall stipulate the conditions and the time  
43 26 period within which the defaulting state must cure its  
43 27 default. If the defaulting state fails to cure the default  
43 28 within the time period specified by the commission, the  
43 29 defaulting state shall be terminated from this compact and all  
43 30 rights, privileges, and benefits conferred by this compact  
43 31 shall be terminated from the effective date of termination.

43 32 b. Product approvals by the commission or product self=

43 33 certifications, or any advertisement in connection with such  
43 34 product, that are in force on the effective date of  
43 35 termination shall remain in force in the defaulting state in  
44 1 the same manner as if the defaulting state had withdrawn  
44 2 voluntarily pursuant to section 1.

44 3 c. Reinstatement following termination of any compacting  
44 4 state requires a reenactment of this compact.

#### 44 5 3. DISSOLUTION OF COMPACT.

44 6 a. This compact dissolves effective upon the date of the  
44 7 withdrawal or default of the compacting state which reduces  
44 8 membership in this compact to one compacting state.

44 9 b. Upon the dissolution of this compact, this compact  
44 10 becomes null and void and shall be of no further force or  
44 11 effect, and the business and affairs of the commission shall  
44 12 be wound up and any surplus funds shall be distributed in  
44 13 accordance with the bylaws.

#### 44 14 ARTICLE XV == SEVERABILITY AND CONSTRUCTION

44 15 1. The provisions of this compact shall be severable, and  
44 16 if any phrase, clause, sentence, or provision is deemed  
44 17 unenforceable, the remaining provisions of this compact shall  
44 18 be enforceable.

44 19 2. The provisions of this compact shall be liberally  
44 20 construed to effectuate its purposes.

#### 44 21 ARTICLE XVI == BINDING EFFECT OF COMPACT AND OTHER LAWS

##### 44 22 1. OTHER LAWS.

44 23 a. Nothing herein prevents the enforcement of any other  
44 24 law of a compacting state, except as provided in paragraph  
44 25 "b".

44 26 b. For any product approved or certified to the  
44 27 commission, the rules, uniform standards, and any other  
44 28 requirements of the commission shall constitute the exclusive  
44 29 provisions applicable to the content, approval, and  
44 30 certification of such products. For advertisement that is  
44 31 subject to the commission's authority, any rule, uniform  
44 32 standard, or other requirement of the commission which governs  
44 33 the content of the advertisement shall constitute the  
44 34 exclusive provision that a commissioner may apply to the  
44 35 content of the advertisement. Notwithstanding the foregoing,  
45 1 action taken by the commission shall not abrogate or restrict:

45 2 (1) The access of any person, including the attorney  
45 3 general, to state courts.

45 4 (2) Remedies available under state law related to breach  
45 5 of contract, tort, or other laws not specifically directed to  
45 6 the content of the product.

45 7 (3) State law relating to the construction of insurance  
45 8 contracts.

45 9 c. All insurance products filed with individual states  
45 10 shall be subject to the laws of those states.

##### 45 11 2. BINDING EFFECT OF THIS COMPACT.

45 12 a. All lawful actions of the commission, including all  
45 13 rules and operating procedures adopted by the commission, are  
45 14 binding upon the compacting states.

45 15 b. All agreements between the commission and the  
45 16 compacting states are binding in accordance with their terms.

45 17 c. Upon the request of a party to a conflict over the  
45 18 meaning or interpretation of commission actions, and upon a  
45 19 majority vote of the compacting states, the commission may  
45 20 issue advisory opinions regarding the meaning or  
45 21 interpretation in dispute.

45 22 d. In the event any provision of this compact exceeds the  
45 23 constitutional limits imposed on the legislature of any  
45 24 compacting state, the obligations, duties, powers, or  
45 25 jurisdiction sought to be conferred by that provision upon the  
45 26 commission shall be ineffective as to that compacting state,  
45 27 and those obligations, duties, powers, or jurisdiction shall  
45 28 remain in the compacting state and shall be exercised by the  
45 29 agency thereof to which those obligations, duties, powers, or  
45 30 jurisdiction are delegated by law in effect at the time this  
45 31 compact becomes effective.

#### 45 32 EXPLANATION

45 33 This bill makes numerous changes throughout the various  
45 34 Code chapters that comprise the insurance code.

45 35 The bill amends Code sections 505.8, 507B.3, 514J.7, and  
46 1 515D.10 to require the commissioner to keep information  
46 2 obtained through investigations and hearings confidential.  
46 3 However, Code section 505.8 permits the commissioner to share  
46 4 information with other regulatory or governmental agencies, or  
46 5 to publish information regarding statutory, rule, or order  
46 6 violations. The commissioner may also adopt rules to protect  
46 7 the privacy of information submitted to the insurance  
46 8 division.

46 9 The bill adds new Code section 505.24 to restrict certain  
46 10 actions by a consumer reporting agency regarding the reuse or  
46 11 sale of information about a consumer the agency has obtained  
46 12 in the course of an insurance inquiry about the consumer.

46 13 New paragraphs are added to Code sections 507A.4 and  
46 14 514B.33 to provide that foreign or domestic multiple employee  
46 15 welfare arrangements, more commonly known as MEWAs and limited  
46 16 service organizations doing business in Iowa shall pay fees  
46 17 under the schedule in Code section 511.24.

46 18 Code language regarding annual filing requirements for  
46 19 financial statements in Code sections 508.11, 514B.12, 515.63,  
46 20 and 518.15 is amended to provide that the filing is due on or  
46 21 before the first day of March, rather than by the first day of  
46 22 March, and also allows the commissioner to designate a  
46 23 depository for filing other than the commissioner's office.

46 24 The bill adds a new provision to Code section 508.31A  
46 25 regarding funding agreements for payments to be made at future  
46 26 dates. Specifically, the new provision permits such  
46 27 agreements to be issued to a person other than a natural  
46 28 person for the purpose of providing collateral security for  
46 29 registered securities issued by that person.

46 30 A new subsection is added to Code section 509A.15 that  
46 31 grants an exemption from the requirements of that Code section  
46 32 to certain self-insured plans by political subdivisions or  
46 33 school corporations.

46 34 Code section 510A.2, regarding the definitions for the Code  
46 35 chapter for property and casualty insurance, is amended by  
47 1 striking the definition of "producer" and adding a definition  
47 2 of "insurance producer". Related changes are made in other  
47 3 sections of Code chapter 510A.

47 4 New paragraphs are added to Code section 511.8, subsection  
47 5 20, and section 515.35, subsection 4, paragraph "m", to refer  
47 6 to the definition of "venture capital fund" in Code chapter  
47 7 15E.

47 8 Code sections 511.27, 512B.33, 514B.3, 515.73, 515E.3, and  
47 9 521C.3 are amended pertaining to agreements to the  
47 10 commissioner's status as the registered agent for service of  
47 11 process for various foreign and domestic companies doing  
47 12 insurance business in the state. Code section 514.2A adds a  
47 13 new section requiring such an agreement for nonprofit health  
47 14 service corporations. In some instances, the changes expand  
47 15 the scope of the Code language to require such agreements by  
47 16 domestic entities as well as foreign entities. In most  
47 17 instances, the changes also update existing Code language.

47 18 New Code section 511.40 creates an insurable interest in  
47 19 the lives of active or retired employees for an employer and a  
47 20 trust established by the employer for the benefit of the  
47 21 employer or for the benefit of the active and retired  
47 22 employees. The employees may be insured on an individual or  
47 23 group basis. An employer must obtain consent from the  
47 24 employee prior to obtaining insurance, including an  
47 25 acknowledgement that the coverage may continue even after the  
47 26 employee is no longer employed by the employer. "Employee"  
47 27 includes officers, managers, directors, shareholders,  
47 28 partners, members, proprietors, or other owners, but for the  
47 29 nonmanagement employees, the amount of coverage must be  
47 30 reasonably related to the benefit provided.

47 31 The bill amends Code section 513C.7 to reference expressly  
47 32 medical assistance provided under Code chapter 514I.

47 33 The bill amends Code section 513C.10 regarding calculation  
47 34 of assessments for the Iowa individual health benefit  
47 35 reinsurance association, and also addresses which insurers are  
48 1 members of the association.

48 2 The bill revises Code section 514J.10, relating to external  
48 3 review of health care decisions, to provide that the  
48 4 commissioner shall prepare an annual report with summary  
48 5 information, rather than requiring each carrier to file a  
48 6 report.

48 7 The bill provides, in Code section 514J.13, that the  
48 8 commissioner shall not be named as a defendant in petitions  
48 9 filed for judicial review of an independent review decision  
48 10 unless the petition alleges the actions in the external review  
48 11 process fall within those permitted by Code section 17A.19,  
48 12 subsection 10. The bill also divides the existing language in  
48 13 Code section 514J.13 into subsections.

48 14 The bill provides, in Code section 515.92, that a company  
48 15 may only write or place a policy or contract for insurance  
48 16 upon property located in this state through a licensed  
48 17 producer authorized to do business in this state. The bill  
48 18 also makes grammatical changes, and divides the existing  
48 19 language in Code section 515.92 into subsections.

48 20 The bill updates existing Code language in Code sections  
48 21 515.133 and 515.134, makes grammatical changes, and divides  
48 22 the existing language in Code section 515.133 into  
48 23 subsections.

48 24 The bill amends the definition of "claimant" in Code  
48 25 section 515B.2 to include the claims against the insured of an  
48 26 insolvent insurer.

48 27 An exception is added to Code section 515B.8 regarding  
48 28 certain causes of action the insolvent insurer would have had.

48 29 Code section 515B.9, regarding nonduplication of recovery  
48 30 in claims covered by the insurance guaranty association, is  
48 31 rewritten to exclude consideration of any obligation of the  
48 32 insurance guaranty association as other insurance, when a  
48 33 claim under another policy alleges the same damages. The Code  
48 34 section now also expressly addresses policies that provide  
48 35 coverage for joint and several liability.

49 1 A three-year statute of limitations following the date of  
49 2 the order of liquidation is added to Code section 515B.16  
49 3 regarding claims brought against the insurance guaranty  
49 4 association.

49 5 Twenty-day notice provisions regarding mailings prior to an  
49 6 effective date of cancellation are changed to 30 days in Code  
49 7 sections 515D.5, 518.23, and 518A.29.

49 8 A filing requirement in Code section 523.7 for beneficial  
49 9 ownership is replaced with the commissioner's authority to  
49 10 prescribe the filing requirements by rule. Grammatical  
49 11 changes are also made to the existing Code language, and it is  
49 12 also divided into subsections.

49 13 In division II, the bill adds the interstate insurance  
49 14 product regulation compact as new Code chapter 505A. The  
49 15 compact is intended, in part, to create the nonprofit  
49 16 interstate insurance product regulation commission and to  
49 17 develop uniform standards for certain insurance products.  
49 18 Each compacting state is entitled to one member on the  
49 19 commission. Procedures are set forth for filing insurance  
49 20 products with the commission and obtaining commission  
49 21 approval. The compact becomes effective and binding upon  
49 22 legislative enactment by two states; the approval process for  
49 23 insurance products, however, requires 26 compacting states as  
49 24 members representing greater than 40 percent of the premium  
49 25 volume for life insurance, annuity, disability income, and  
49 26 long-term care insurance products.

49 27 The bill repeals Code sections 511.30, 515.78, and 518A.43.  
49 28 Code section 511.30 relates to the use of intoxication as a  
49 29 defense in an action on an insurance policy. Code section  
49 30 515.78 relates to an agent's certificate of authority. Code  
49 31 section 518A.43 relates to the cancellation of an insurance  
49 32 producer's license.

49 33 The bill contains a provision regarding retroactive  
49 34 applicability to July 1, 1995, with respect to the amendments  
49 35 to Code section 513C.10, regarding the Iowa individual health  
50 1 benefit reinsurance association. Those provisions and the  
50 2 retroactive applicability provision are also subject to an  
50 3 immediate effective date provision.

50 4 LSB 1046DP 80  
50 5 jj/sh/8.1